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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Elimination of all forms of religious intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, submitted in accordance with General Assembly resolution 66/168.

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Interim report of the Special Rapporteur on freedom of religion or belief

Summary

In the present report, the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, provides an overview of his mandate activities since the submission of the previous report to the General Assembly (A/66/156), including his country visits, communications and other activities.

The Special Rapporteur then focuses on the right of conversion as part of freedom of religion or belief. In this context, he distinguishes the following four subcategories: (a) the right to conversion, in the sense of changing one's own religion or belief; (b) the right not to be forced to convert; (c) the right to try to convert others by means of non-coercive persuasion; and (d) the rights of the child and of his or her parents in this regard. The Special Rapporteur outlines the international human rights framework and specific violations for each of these subcategories and addresses some typical misunderstandings.

In his conclusions and recommendations, the Special Rapporteur calls upon States to consistently respect, protect and promote the human right to freedom of religion or belief in the area of conversion. He reiterates that the right to conversion and the right not to be forced to convert have the status of unconditional protection under international human rights law. Freedom of religion or belief includes the right to try to persuade others in a non-coercive manner; any restrictions on missionary activities deemed necessary by States must strictly abide by article 18 (3) of the International Covenant on Civil and Political Rights. The rights of the child and his or her parents must be guaranteed effectively in the context of conversion issues. Lastly, the Special Rapporteur provides specific recommendations with regard to domestic legal provisions, various areas of administration and school education and non-State actors.

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I. Introduction

1. In 1986, the Commission on Human Rights created the mandate of the Special Rapporteur on freedom of religion or belief by its resolution 1986/20. In 2007, the Human Rights Council renewed the Special Rapporteur's mandate in its resolution 6/37 and, in 2010, extended it for a further period of three years in its resolution 14/11. Heiner Bielefeldt was appointed Special Rapporteur on freedom of religion or belief at the fourteenth session of the Council and assumed his function on 1 August 2010.

2. In section II of the present report, the Special Rapporteur provides an overview of his activities since the submission of his previous report to the General Assembly (A/66/156). In section III, he focuses on the right of conversion as part of freedom of religion or belief. Section IV provides his conclusions and recommendations to various actors in this regard.

II. Activities of the Special Rapporteur

3. The Special Rapporteur conducted various activities between 1 August 2011 and 31 July 2012 pursuant to Human Rights Council resolutions 6/37 and 14/11.

A. Country visits

4. The Special Rapporteur undertook country visits to the Republic of Moldova (1 to 8 September 2011) and Cyprus (29 March to 5 April 2012). The report on his visit to the Republic of Moldova (A/HRC/19/60/Add.2) was presented at the nineteenth session of the Human Rights Council in March 2012 and the report on his visit to Cyprus is to be presented at the Council's twenty-second session.[1] The Special Rapporteur expresses his appreciation to all his interlocutors and officials for the excellent cooperation they extended to him during his visits. He hopes that the recommendations provided following the visits will be considered and implemented to overcome any existing or emerging obstacles and to reinforce efforts towards promoting and protecting the right to freedom of religion or belief.

5. Additional country visits are currently being scheduled. Updated information about the Special Rapporteur's visits and related requests is available on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR).[2]

6. On 30 November 2011, the Special Rapporteur sent follow-up letters concerning country visits undertaken by the previous mandate holder in 2009, including her missions to the Lao People's Democratic Republic, Serbia (including a visit to Kosovo) and the former Yugoslav Republic of Macedonia. Follow-up tables with the conclusions and recommendations from the related mission report and information from the Government and relevant United Nations documents,

[1] The Special Rapporteur's statement at the conclusion of his visit to Cyprus is available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12042&LangID=E.

[2] See www2.ohchr.org/english/bodies/chr/special/countryvisitsa-e.htm.

including from the universal periodic review, special procedures and treaty bodies, are available online.[3]

B. Communications

7. The Special Rapporteur deals with individual cases or issues of concern brought to his attention. He sends allegation letters and urgent appeals to States seeking clarification on credible allegations of incidents and governmental action possibly incompatible with the provisions of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981 Declaration) (see General Assembly resolution 36/55). Since the creation of the mandate, the Special Rapporteurs have sent more than 1,250 allegation letters and urgent appeals to a total of 130 States. The communications sent by the Special Rapporteur between 1 July 2011 and 15 March 2012 and the replies received from Governments before 15 May 2012 are included in the latest communications reports (A/HRC/19/44 and A/HRC/20/30).

8. The Special Rapporteur's communications cover a wide range of thematic issues, including allegations of attacks, arbitrary detention and disappearances of individuals belonging to religious minorities or belief communities and converts facing "blasphemy" and "apostasy" charges that may even carry death sentences. He has also taken up allegations of public manifestations of religious intolerance and stigmatization of persons based on their religion or belief. Recent cases show an increasing tendency towards religious intolerance that involves attacks on places of worship and religious sites such as cemeteries. Moreover, manifestations of one's religion or belief have been restricted in particular in cases of peaceful assembly and protest or in attempts to express one's opinion via the media. In addition, the Special Rapporteur has analysed problematic legislative systems or draft legislation that fail to ensure the enjoyment of freedom of thought, conscience, religion or belief by all without discrimination or that prescribe burdensome administrative procedures of registration for religious or belief communities to obtain "recognition" or legal personality status.

9. As requested by the Human Rights Council, the Special Rapporteur has continued to apply a gender perspective through, inter alia, the identification of gender-specific abuses, in the reporting process, including in the collection of information and recommendations. A number of allegation letters and urgent appeals summarized in the communications reports specifically address practices and legislation that discriminate against women and girls, including in the exercise of their right to freedom of thought, conscience and religion or belief.

C. Other activities

10. On 12 and 13 October 2011, the Special Rapporteur participated in an expert workshop in Santiago de Chile on how best to respond to advocacy of national, racial or religious hatred that constitutes incitement of discrimination, hostility or violence. The workshop was part of a series of four regional workshops organized by OHCHR.

[3] See www.ohchr.org/EN/Issues/FreedomReligion/Pages/Visits.aspx.

11. At the four regional workshops, the Special Rapporteur presented joint submissions together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.[4] The Special Rapporteurs analysed a strategic response to hate speech, which should include efforts to educate people about cultural differences; promote diversity; and empower and give a voice to minorities, for example, through the support of community media and their representation in mainstream media. In this context, the Special Rapporteur refers to the Camden Principles on Freedom of Expression and Equality,[5] which recommend the adoption of a public policy framework for the media that promotes pluralism and equality, by, for example, making an equitable allocation of resources, including broadcasting frequencies, among public service, commercial and community media, so that together they represent the full range of cultures, communities and opinions in society.

12. On 7 December 2011, the Special Rapporteur held a discussion in Strasbourg, France, with the European Commission against Racism and Intolerance on the question of racial and religious hate speech. On 12 and 13 December, he attended a two-day meeting in Washington, D.C., entitled the "Istanbul Process for Combating Intolerance, Discrimination and Violence on the Basis of Religion or Belief". The meeting focused on concrete and positive measures that States can take to eliminate religious intolerance in the implementation of Human Rights Council resolution 16/18 on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief.

13. On 22 and 23 May 2012, the Special Rapporteur attended an expert seminar in Vienna on enhancing the effectiveness of international, regional and national human rights mechanisms in protecting and promoting the rights of religious minorities, together with the Independent Expert on minority issues and other relevant experts. He spoke about the protection of religious minorities under international human rights standards, including the 1981 Declaration and articles 18, 26 and 27 of the International Covenant on Civil and Political Rights.

14. The Special Rapporteur held many meetings with Government representatives, religious or belief communities, civil society organizations and academic experts working in the area of freedom of religion or belief. In this context, he participated in national and international conferences, including in Baku, Berlin, Brussels, Budapest, Geneva, Lucerne, Switzerland, and Salzburg, Austria.

III. Right to conversion as part of freedom of religion or belief

A. Introduction

15. Countless reports of grave violations of the right to freedom of religion or belief relate to converts and those who try to convert others by means of non-coercive persuasion. This has become a human rights problem of great concern

[4] See www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/ExpertsPapers.aspx.

[5] See www.article19.org/resources.php/resource/1214/en/camden-principles-on-freedom-of-expression-and-equality.

which occurs in various parts of the world and seems to stem from different motives. For instance, abuses are perpetrated in the name of religious or ideological truth claims, in the interest of promoting national identity or protecting societal homogeneity, or under other pretexts such as maintaining political and national security. While some undue restrictions on the rights of converts or those trying non-coercively to convert others are undertaken by State agencies, other abuses, including acts of violence, stem from widespread societal prejudices. Violations in this sensitive area also include forced conversions or reconversions, again perpetrated either by the State or by non-State actors. In addition, the rights of converts or those trying non-coercively to convert others are sometimes questioned in principle. The Special Rapporteur has therefore decided to put a thematic focus on this issue in the present report in order to contribute to a clarification of the rights of converts and those trying non-coercively to convert others as inextricable dimensions of freedom of religion or belief.[6]

16. The right to freedom of thought, conscience, religion or belief has manifold facets. In the area of conversion, at least four subcategories warrant systematic attention: (a) the right to conversion (in the sense of changing one's own religion or belief); (b) the right not to be forced to convert; (c) the right to try to convert others by means of non-coercive persuasion; and (d) the rights of the child and of his or her parents in this regard. It is important to clearly distinguish these dimensions since they differ with respect to the precise content and degree of legal protection attached to them under international human rights law. At the same time, one should not lose sight of the close links among the various dimensions in the attempt to ensure respect for every person's freedom of religion or belief.[7]

B. International human rights framework

1. Right to conversion (in the sense of changing one's own religion or belief)[8]

17. Article 18 of the Universal Declaration of Human Rights explicitly guarantees the "freedom to change" one's religion or belief as an inextricable component of the human right to freedom of religion or belief. While subsequent United Nations instruments use slightly different wording, the right to conversion remains fully protected. Article 18 of the International Covenant on Civil and Political Rights provides that freedom of thought, conscience and religion includes "freedom to have or adopt a religion or belief of his choice". Article 18 (2) was included partly to reinforce the protection of the right to conversion, stating that "[n]o one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice". Article 1 of the 1981 Declaration refers to everyone's "freedom to have a religion or whatever belief of his choice".

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[6] Issues relating to conversion have already been discussed by previous mandate holders; see, for example, A/51/542/Add.1, paras. 11-12 and 134; E/CN.4/2005/61, paras. 45-47; and A/60/399, paras. 40-68.

[7] From a strictly normative perspective, there is no meaningful difference between conversion and reconversion. As part of his empirical observations, the Special Rapporteur nonetheless occasionally refers explicitly to both converts and reconverts or to acts of conversion and reconversion.

[8] In the present report, formulations like "right to conversion" or "freedom of conversion" always relate to the dimension of changing one's own religion or belief.

18. As early as 1987, the then Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Elizabeth Odio Benito, concluded that while these provisions varied slightly in wording, they "all meant precisely the same thing: that everyone has the right to leave one religion or belief and to adopt another, or to remain without any at all" (see E/CN.4/Sub.2/1987/26, para. 21). In its general comment No. 22 (1993), the Human Rights Committee also interprets the "have or adopt" formulation of the International Covenant on Civil and Political Rights to include the right to conversion — an interpretation to which the Special Rapporteur clearly subscribes: In general comment No. 22, the Committee observes that "the freedom 'to have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as to retain one's religion or belief".[9]

19. It is generally agreed that within the ambit of freedom of religion or belief, the *forum internum*, namely, the internal dimension of a person's religious or belief-related conviction, enjoys absolute protection. In this regard, the *forum internum* differs from external manifestation of religion or belief, which can be restricted under certain conditions and in accordance with certain criteria. As pointed out by the Human Rights Committee, the *forum internum* also covers everyone's freedom to have or adopt a religion or belief of one's choice and this freedom is protected unconditionally.[10] Consequently, the right to conversion has the rank of an absolutely protected right within freedom of religion or belief and does not permit any limitations or restrictions for any reason.

20. The Special Rapporteur reiterates the Human Rights Committee's clarification that freedom of religion or belief should be broadly construed so as to protect "theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief".[11] Since the application of article 18 of the International Covenant on Civil and Political Rights is not limited "to traditional religions or to religions or beliefs with institutional characteristics or practices analogous to those of traditional religions",[12] such a broad understanding must also guide the various human rights questions that occur in the field of conversion.

21. States therefore have a number of obligations vis-à-vis the right to conversion. First, States should respect everyone's right to conversion as a *forum internum* component within freedom of religion or belief, for example, by abolishing punishments against converts and removing administrative obstacles. Moreover, States are obliged to protect the right to conversion against possible third-party infringements, such as violence or harassment against converts by their previous communities or their social environment. In addition, States should promote a societal climate in which converts can generally live without fear and free from discrimination.

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[9] See CCPR/C/21/Rev.1/Add.4, para. 5.

[10] Ibid., para. 3.

[11] Ibid., para. 2; the same formulation was also used in the Final Document of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination (see E/CN.4/2002/73, appendix, footnote 1).

[12] Ibid., para. 2.

2. Right not to be forced to convert

22. The right not to be forced to convert also falls within the ambit of the *forum internum*, which has the status of absolute protection. In a sense, it is already implied in the right to conversion itself which, as a right to freedom, necessarily means voluntary, namely, non-coerced conversion. However, the right not to be forced to convert entails specific obligations on the State and hence warrants a separate discussion.

23. Above all, States must meticulously ensure that the specific authority of State agents and State institutions is not used to coerce people to convert or reconvert. One area that requires particular attention in this regard is the school which, besides being a place of learning and education, is also an institution that wields a high degree of authority over children, namely, young persons who may be particularly vulnerable to pressure from teachers or peers (see A/HRC/16/53, paras. 20-62). Other institutions that typically expose individuals to situations of increased vulnerability include the police force, the military and penal institutions. In all these and other State institutions, Governments have a special responsibility to guarantee everyone's protection against possible coercion to convert or reconvert to a religion or belief against their will.[13] The Human Rights Committee has emphasized that policies or practices having the intention or effect of compelling believers or non-believers to convert, for example, by restricting access to education, medical care or employment, are inconsistent with article 18 (2) of the International Covenant on Civil and Political Rights.[9]

24. The right not to be forced to convert is also relevant to non-State actors or to third parties, namely, private individuals or organizations. If individuals or organizations try to convert people by resorting to means of coercion or by directly exploiting situations of particular vulnerability, protection by States against such practices may prove necessary. This may amount to limiting the right to try to persuade others, which itself constitutes an important part of the *forum externum* dimension of freedom of religion or belief. As will be further discussed in section III.B.3 below, such restrictions can, however, only be justified if they strictly meet all the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights.

25. States also have the responsibility to ensure that forced conversions do not occur in the context of marriage or marriage negotiations. The obligation to guarantee effective protection, especially for women and sometimes minors, in this sensitive field follows from the right to freedom of religion or belief as well as from the duty of States to combat all forms of violence and discrimination against women. According to article 16 (1) (b) of the Convention on the Elimination of All Forms of Discrimination against Women, States parties "shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on the basis of equality of men and women [...] the same right freely to choose a spouse and to enter into marriage only with their free and full consent".

[13] See recent communications in A/HRC/16/53/Add.1, paras. 88-98 and 346-350.

3. Right to try to convert others by means of non-coercive persuasion

26. Freedom of religion or belief is not confined to the dimension of a person's *forum internum* but also includes the freedom to manifest one's religion or belief in external acts, such as 'worship, observance, practice and teaching".[14] Such *forum externum* manifestations can be undertaken "either individually or in community with others and in public or private".[14] It cannot be denied that this covers non-coercive attempts to persuade others, sometimes also called "missionary work".[15] Communicative outreach activities aimed at persuading others, including religious discourse, can be further based on article 19 (2) of the International Covenant on Civil and Political Rights, which provides that the right to freedom of expression shall include "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".[16]

27. Similar to freedom of expression, freedom of religion or belief has a strong communicative dimension which includes, inter alia, the freedom to communicate within one's own religious or belief group, share one's conviction with others, broaden one's horizons by communicating with people of different convictions, cherish and develop contacts across State boundaries, receive and disseminate information about religious or belief issues and try to persuade others in a non-coercive manner. Indeed, freedom of religion or belief and freedom of expression are two mutually reinforcing human rights.[17] In this spirit, article 6 of the 1981 Declaration confirms that the right to freedom of thought, conscience, religion or belief includes the freedoms "(d) to write, issue and disseminate relevant publications in these areas", "(e) to teach a religion or belief in places suitable for these purposes", and "(i) to establish and maintain communications with individuals and communities in matters of religion or belief at the national and international levels".

28. Unlike the *forum internum* dimension as discussed above (namely, the right to conversion and the right not to be forced to convert), manifestations of one's religion or belief in the *forum externum* do not enjoy absolute protection. However, the decisive point in international human rights law is that the burden of proof always falls on those who argue on behalf of restrictions, not on those who defend a right to freedom. The relationship between freedom and its possible limitation is a relationship between rule and exception. In case of doubt, the rule prevails and exceptions always imply an extra burden of argumentation, including clear empirical evidence of their necessity and appropriateness. Moreover, any restrictions imposed must meet all the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights, according to which "[f]reedom

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[14] See article 18 (1) of the International Covenant on Civil and Political Rights.

[15] Formulations such as "missionary work" or "missionary activities", when occasionally used in the present report, are not intended to reflect specifically denominational concepts. Similar concepts include "bearing witness", "da'wa" (the call), "invitation", etc.

[16] See Human Rights Committee, general comment No. 34 on article 19: freedoms of opinion and expression, CCPR/C/GC/34, para. 11.

[17] See statements made by the High Commissioner for Human Rights at the 2008 expert seminar on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights (A/HRC/10/31/Add.3, para. 3) and at the 2011 series of expert workshops on the prohibition of incitement to national, racial or religious hatred (www.ohchr.org/Documents/Issues/Expression/ICCPR/HCMessageWorkshops.pdf).

to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others". Thus, limitations imposed on the right to try to convert others require a legal basis; they must pursue one of the legitimate aims exhaustively listed in article 18 (3); they should be clearly and narrowly defined; they must be proportionate; and they should not be implemented in a discriminatory manner. By contrast, general provisions against "proselytism", a term that often remains undefined or merely vaguely circumscribed while typically carrying negative connotations would not suffice to meet the criteria prescribed in article 18 (3).

29. The Special Rapporteur notes that some religious communities, interfaith organizations and non-governmental organizations have developed voluntary ethical guidelines or voluntary codes of conduct on how to undertake and not to undertake missionary activities.[18] Those subscribing to such guidelines commit to respecting ethical principles, such as avoiding negative stereotypes, showing sensitivity for different cultural contexts and not linking charity work or humanitarian aid to expectations of conversion. While appreciating the significance of such ethical guidelines, which can have a beneficial effect on interreligious communication and cooperation, the Special Rapporteur emphasizes that they should be respected as voluntary and cannot be enforced by States. Moreover, reference to such voluntary guidelines or codes of conduct must not become a pretext for States to circumvent the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights when imposing limitations on the right to try to convert others by means of non-coercive persuasion.

4. Rights of the child and of his or her parents

30. Pursuant to article 18 (4) of the International Covenant on Civil and Political Rights, States parties undertake "to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions". This provision has been reaffirmed by article 5 (1) of the 1981 Declaration, which states: "The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up."

31. At the same time, the Convention on the Rights of the Child recalls that parents' rights must always be seen in conjunction with the human rights of the child. Article 14 (1) of the Convention requires States to "respect the rights of the child to freedom of thought, conscience and religion". Article 14 (2) obliges States

[18] See World Council of Churches, Pontifical Council for Interreligious Dialogue, World Evangelical Alliance, "Christian Witness in a Multi-Religious World: Recommendations for Conduct" (Bangkok, 2011). See also Organization for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights, "Guidelines for Review of Legislation Pertaining to Religion or Belief", 2004; Oslo Coalition on Freedom of Religion or Belief, "Missionary Activities and Human Rights: Proposing a Code of Conduct regarding Missionary Activities", 2008; International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross (ICRC), "Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief", 1994, available from www.ifrc.org/en/publications-and-reports/code-of-conduct/.

parties to "respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child". The requirement to take into account the evolving capacities of the child reflects the insight that children themselves are rights-holders in international human rights law and, consequently, that their own convictions deserve respect.

32. This is further specified in article 12 (1) of the Convention, which provides that the views of the child have to be given "due weight in accordance with the age and maturity of the child". Concerning the question of how to determine the maturity of the child, the Special Rapporteur is inclined to favour a case-by-case approach rather than any fixed age limits. The Committee on the Rights of the Child has also emphasized that "[t]he more the child himself or herself knows, has experienced and understands, the more the parent, legal guardian or other persons legally responsible for the child have to transform direction and guidance into reminders and advice and later to an exchange on an equal footing. This transformation will not take place at a fixed point in a child's development, but will steadily increase as the child is encouraged to contribute her or his views".[19]

33. When convictions of the parents about religious or belief matters differ, the best interests of the child shall be a primary consideration. This also includes respect for his or her right to be heard and giving due weight to the views of the child in accordance with his or her age and maturity. It is important for the State to ensure that conflicts possibly arising from parents having different convictions are settled in an unbiased and non-discriminatory manner.

34. There can be no question that these provisions also apply to the right of conversion and its correlate, namely, the right not to be forced to convert or reconvert. Converts have the right for their new religious or belief affiliation to be respected in the religious upbringing of their children, in a manner consistent with the evolving capacities of the child. Any attempts, especially by the State or in State institutions, to alienate the children of converts from their family in religious or belief-related questions — for instance, by stipulating that children of converts must receive religious instruction in schools that goes against their will or the will of their parents — would thus infringe upon freedom of religion or belief and disregard the best interests of the child.

C. Violations of freedom of religion or belief in the area of conversion

35. In his daily work, the Special Rapporteur regularly receives complaints of serious violations of freedom of religion or belief in relation to conversion in the four subcategories mentioned in the previous section. Typical targets include converts and their families or members of minorities or new religious movements who are subjected to pressure to convert or reconvert to mainstream religions or beliefs. Another problem concerns restrictions on the right to try to convert others by means of non-coercive persuasion which, in many countries, fall short of the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights. Moreover, both converts and persons trying non-coercively to convert others

[19] See Committee on the Rights of the Child, general comment No. 12, CRC/C/GC/12, para. 84; see also A/64/159, para. 27.

are often exposed to stereotypes and prejudices that may cause violent actions against them. The following non-exhaustive overview is structured along the four categories elaborated in the previous section.

1. Violations of the right to conversion

36. In various regions of the world, converts are confronted with difficulties when trying to live in conformity with their convictions. Some States have criminal law sanctions according to which acts of conversion can be punished as "apostasy", "heresy", "blasphemy" or "insult" in respect of a religion or of a country's national heritage. In extreme cases, this can include the death penalty. In a number of countries, converts run the risk of having their marriage nullified, being excluded from the right to inheritance or losing custody of their children (see A/63/161, para. 37). Such sanctions in family law or other areas of civil law can have dramatic consequences for a person and her or his family.

37. Various administrative obstacles against conversion are an even more widespread phenomenon. In some cases, passports and other official documents continue to reflect the previous religious adherence of converts, often against their explicit will. Reportedly, children of converts have been registered under a different religion than their own, for instance the predominant religion of the country or the religion from which their parents converted. The result can be that the children are obliged to take religious instruction in school that does not reflect their own religion or belief. Such forms of systematic administrative disrespect can also target persons who have been born into a community whose members are collectively stigmatized as "apostates" or "heretics" (see A/HRC/19/60, paras. 40-51).

38. Converts frequently suffer from systematic discrimination in virtually all sectors of society, such as education, housing, employment or health care. Moreover, registration requirements are used for the purpose of exposing converts, possibly with systematic discriminatory intention or effect. This can be the result of deliberate State policies to exclude converts or members of new religious movements stigmatized as "apostates" or "heretics" from higher education and other important societal institutions. Sometimes they cannot even obtain the official documents they need in order to travel, apply for jobs, participate in public elections or enrol their children in school.

39. In other cases, discrimination chiefly stems from societal prejudices often also stoked by public or private media, some of which may present converts as "inimical forces" who allegedly threaten the society's identity and cohesion. Moreover, converts sometimes experience pressure and mobbing even within their own families or in their close social environment. In extreme cases, this can lead to abductions, ill treatment and killings. It is a bitter irony that they may even experience suspicion within their new religious communities, owing to fear of "fake converts" potentially being planted by a hostile administration to test their political loyalty.

40. As a result of systematic discrimination, widespread hostility, manifestations of public contempt, State repression and persecution, some converts decide to leave their country of origin and try to find a new home elsewhere. When applying for asylum, they may again be treated with suspicion in that the genuineness of their

conversion is questioned or even denied.[20] Extraditions of converts to their countries of origin, even in the face of obvious risks of persecution, have at times been justified with the cynical recommendation that they could simply "conceal" their new faith, a recommendation that shows a flagrant disrespect for freedom of thought, conscience, religion or belief. The Special Rapporteur reiterates that extraditions or deportations that are likely to result in violations of freedom of religion or belief may themselves amount to a violation of this human right. In addition, such extraditions violate the principle of *non-refoulement*, as enshrined in article 33 of the 1951 Convention relating to the Status of Refugees.[21]

2. Violations of the right not to be forced to convert

41. Violations of the right not to be forced to convert are perpetrated both by States and non-State actors. Reportedly, some States exercise pressure on converts in order to reconvert them to their previous religion or on members of minorities to make them join mainstream religions or the official religion of the country. Means used for such illegitimate purposes include the threat of criminal sanctions, systematic discrimination, exclusion from higher education or other important societal sectors, denial of citizenship, non-registration of marriages, involuntary exposure of religion or belief in passports and other official documents, verbal abuse and even the threat or application of physical violence. Sometimes pressure is also exercised on children, a phenomenon discussed separately (see paras. 48-50 below).

42. The problem also involves non-State actors. Some country reports indicate that non-State actors intimidate people by launching terrorist attacks in areas where religious minorities reside with the purpose of converting them. Furthermore, private individuals or organizations may exercise pressure with the purpose of converting people against their will. This can include the exploitation of situations of particular vulnerability, for instance in the context of humanitarian disasters, when some people may be in urgent need of humanitarian support measures that themselves are linked to a clear expectation of conversion. However, whether specific missionary activities in such situations of increased vulnerability amount to coercion should be established on a case-by-case basis, examining the context and circumstances in each individual situation (see A/60/399, paras. 64-68).

43. The right not to be forced to convert also has an obvious gender dimension, since involuntary conversions can occur in the context of marriage or marriage negotiations. In a number of countries, obstacles to interreligious marriage still exist despite the provision in article 16 (1) of the Universal Declaration of Human Rights according to which the right to marry and found a family may not be limited on grounds of religion. Such obstacles are sometimes formally enshrined in legal statutes and enforced by State authorities, including the judiciary. While men are sometimes expected to convert against their will in order to be able to marry a woman of a different religious affiliation, women are particularly affected by formal

[20] See A/HRC/16/53/Add.1, paras. 399-407; A/HRC/7/10/Add.3, para. 56; and A/64/159, para. 24. Also, any conversion post departure should not give rise to the presumption that the asylum claim is fabricated (see A/HRC/6/5, para. 31).

[21] Moreover, article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that no State shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

or informal pressure to convert to the religion of their prospective husbands. Although many such conversions may be undertaken on a voluntary basis, there are also cases of threats or coercion. The Special Rapporteur has received disturbing reports about the abduction and forced conversion of women, sometimes minors, especially from religious minorities. He is concerned that such incidents seem to occur in a climate of impunity, thus leading to the impression that law enforcement agencies systematically fail to provide effective protection for women and girls. There are still countries that, on the basis of custom, religious beliefs or the ethnic origins of particular groups of people, permit forced marriages or remarriages. The Committee on the Elimination of Discrimination against Women has recommended that "States parties should resolutely discourage any notions of inequality of women and men which are affirmed by laws, or by religious or private law or by custom." (see general recommendation No. 21, para. 44).

3. Violations of the right to try to convert others by means of non-coercive persuasion

44. A number of States restrict religious outreach activities under the heading of "proselytism", a term that typically conjures up negative sentiments but rarely receives a clear conceptual or legal definition. Prohibitions of "proselytism" or of other vaguely defined "offences" under domestic legislation are sometimes enshrined in the constitution or in criminal law statutes. As a result, non-coercive attempts to persuade others may lead to criminal prosecution because of "proselytism", "unethical conversion", "disruption of public order", "blasphemy" or related "offences".[22] Often the mere existence of such legislation has a chilling effect on communicative outreach activities. Some States have enacted explicit anti-conversion laws, some of which supposedly are intended to provide protection only from so-called "fraudulent" conversion, a term that, again, often remains ill-defined and thus opens the floodgates to restrictive practices. States that claim to protect people against exploitation in situations of particular vulnerability often fail to provide clear empirical evidence that certain missionary activities amount to coercion. Moreover, law enforcement agencies often confiscate and destroy such religious materials as prayer books, information sheets, video messages or education programmes. In some States, the mere possession of such material can trigger criminal or administrative sanctions, including long-term imprisonment. Non-citizens suspected of engaging in unwelcome missionary activities frequently risk deportation or the denial of visa-extension.[23]

45. In addition to criminal and administrative sanctions imposed by States or other restrictive State measures, individuals or groups trying to persuade others are often confronted with societal prejudices that sometimes escalate into fully fledged paranoia and concomitant acts of mob violence.[24] This can even affect persons or communities who merely offer peaceful invitations. Members of religious communities that have a reputation of being generally committed to missionary work may suffer from harassment, hostility and violence, regardless of whether or not they are personally engaged in any such activities.

46. Unlike the rights to convert and not to be forced to convert, which are protected unconditionally, the right to try to convert others by means of

[22] See A/51/542/Add.1, para. 134; A/60/399, paras. 60-61 and 66.

[23] See A/63/161, paras. 25-66; A/61/340, paras. 55-61.

[24] See A/HRC/10/8/Add.1, paras. 45-49; A/HRC/10/8/Add.3, paras. 11 and 47-52.

non-coercive persuasion can be limited in conformity with the criteria prescribed in article 18 (3) of the International Covenant on Civil and Political Rights. However, the Special Rapporteur has the strong impression that many of the legislative or administrative restrictions imposed by States fall far short of satisfying those criteria. For example, vague and overly broad definitions of "proselytism", "unethical conversion" and related "offences" may create an atmosphere of insecurity in which law enforcement agencies can restrict acts of religious communication in an arbitrary manner. Some States have started to require individuals seeking to conduct missionary activities to register, sometimes on an annual basis. However, in view of the right to try to convert others by means of non-coercive persuasion, registration should not be a precondition for practising one's religion or belief, including through missionary activities.[25]

47. The Special Rapporteur has also noted with concern that restrictions are often conceptualized and implemented in violation of the principle of non-discrimination. In particular, States that have an official religion frequently seem to encourage missionary activities on behalf of the country's official religion, while at the same time prohibiting or restricting any attempts to convert people to another religion or belief. With regard to the concept of an official "State religion", the Special Rapporteur reiterates that it seems difficult, if not impossible, to conceive of an application of this concept that in practice does not have adverse effects on religious minorities, thus discriminating against their members (see A/HRC/19/60, para. 66). There are also some discriminatory domestic legal provisions that give preferential treatment to so-called "reconversions" to the forefathers' original religion (see A/HRC/10/8/Add.3, para. 48). Such policies and practices violate the principles of equality and non-discrimination on which the entire architecture of human rights, including the right to freedom of religion or belief, is based.

4. Violations of the rights of the child and of his or her parents

48. Violations of freedom of religion or belief in the broad field of conversion sometimes include State pressure or societal pressure on children, a phenomenon that warrants special discussion, since it goes against the rights of parents or guardians to ensure the religious and moral education of their children in conformity with their own convictions and in a manner consistent with the evolving capacities of the respective child.

49. The Special Rapporteur is deeply concerned by reports of repressive measures targeting children, since they occur in a considerable number of countries. As well as directly violating the rights of the affected children, such practices often seem to pursue the illegitimate purpose of exercising pressure on their parents or guardians. The intention may be to reconvert them to their previous religion or put pressure on members of minorities or non-traditional religions to convert to socially "accepted" religions or beliefs that are thought to be more in line with the traditional makeup of the country. Measures used for such purposes include involuntary participation of children in religious instruction as part of the mandatory school curriculum. Sometimes, children of converts or children from a religious minority are even urged to actively participate in religious prayers or practice religious rituals in public schools.

[25] See E/CN.4/2005/61, paras. 55-58; A/61/340, paras. 52-54; and A/HRC/19/60, para. 41.

50. Parents from minorities or converts may run the risk of losing the right to have custody of their own children. In conflicts between parents of different religious or belief-related orientations, for example in the context of divorce settlements, parents from minorities or converts frequently suffer discriminatory treatment. In such situations, children often cannot express their views in an open, non-intimidating atmosphere, which is required to respect their right to be heard. As a result of an insensitive or discriminatory handling of such complicated situations, children are alienated from their parents or families, with traumatic consequences for all. This can amount to grave violations of the rights of the child, as well as a serious violation of freedom of religion or belief of the parents.

D. Widespread misunderstandings

51. Freedom of religion or belief in the broad field of conversion is not only violated in practice; it is sometimes also questioned in principle. In discussions with representatives of Governments, members of various religious or belief communities and other stakeholders in society and academia, the Special Rapporteur has come across perceptions and conceptualizations that may lend intellectual support to undue infringements, in particular of the rights of converts and those trying to convert others by means of non-coercive persuasion. He therefore briefly addresses some typical misunderstandings.

1. Disruption of peace and harmony

52. The most widespread objection against the right to try non-coercively to convert others concerns the fear that this may lead to a disruption of societal peace and interreligious harmony. A number of Governments have taken up such objections and turned them into a general argument of "public order" which they use to restrict the right to try to convert others even if such attempts are undertaken by means of strictly non-coercive persuasion. In many cases, such restrictions, for example against "proselytism" or "unethical conversions" (see A/60/399, paras. 44-45) remain overly broad, vaguely defined or even discriminatory, thus failing to satisfy the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights.

53. With regard to this issue, the Special Rapporteur emphasizes that he obviously shares an interest in promoting peaceful relations among people of different religions or beliefs. He further notes that freedom of religion or belief itself should be seen as conducive to peace. This is reflected, for example, in the 1948 Universal Declaration of Human Rights, which proclaims in its preamble that respect for human rights constitutes "the foundation of [...] freedom, justice and peace in the world".

54. The peace facilitated by human rights in general and freedom of religion or belief in particular is built on due recognition of people's most diverse convictions and concomitant practices. This includes respect for the rights of individuals to communicate on questions of religion or belief, reach out across communities and State boundaries, broaden their own horizons or try to persuade others in a non-coercive manner. Thus, a society respectful of freedom of religion or belief for everyone, as guaranteed in international human rights law, will likely be a religiously pluralistic society, with open boundaries among different communities

and subcommunities, and will also be open to peaceful competition and intellectual controversies on religious and belief-related questions.

55. The specific concept of peace underlying international human rights clearly differs from the authoritarian control agendas that are sometimes also put forward in the name of "peace" or "harmony". However, a peace based on respect for the dignity and freedom of all human beings goes deeper and has a better chance of sustainability than any societal order organized around such ideas as hegemony, customs or mere authority. Respect for human dignity, in turn, is not conceivable without recognition of every human being's freedom to communicate about issues of religion or belief, including the right to try to persuade others in a non-coercive manner.

2. Threatened erosion of moral values

56. Restrictions on freedom of religion or belief are sometimes implemented in the name of protecting moral values based on a particular religious tradition that often is the tradition of the majority in a country. From that point of view, missionary activities may be perceived by some Governments as challenging the predominance of a religious tradition with allegedly adverse consequences for the moral fabric of society as a whole. Restrictive measures imposed by States to prevent such a development may target not only those who try to convert others by means of non-coercive persuasion, but also persons who themselves have converted or wish to convert away from the dominant religion of the country. This problem frequently occurs in countries where there is a State religion.

57. In this context, it is important to bear in mind that the Human Rights Committee has argued for a pluralistic understanding of the concept of "morals", a concept listed among the possible grounds for limiting manifestations of freedom of religion or belief in article 18 (3) of the International Covenant on Civil and Political Rights. In its general comment No. 22, the Human Rights Committee clarifies that the concept of morals "derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition". In its recent general comment No. 34 on freedoms of opinion and expression, the Committee adds that "[a]ny such limitations must be understood in the light of the universality of human rights and the principle of non-discrimination" (see CCPR/C/GC/34, para. 32). The Special Rapporteur welcomes this clarification, which must also be applied to any restrictions imposed on manifestations of freedom of religion or belief.

58. Restrictions on manifestations of freedom of religion or belief, including non-coercive attempts to convert others, thus cannot be justified by the invocation of a closed understanding of a moral order based on one particular religious or philosophical tradition. Instead, any restrictions deemed necessary by States must meet all the specific criteria prescribed in article 18 (3) of the International Covenant on Civil and Political Rights. Moreover, the interest of protecting certain moral or religious values may never be invoked to restrict the freedom of conversion itself which, as part of the absolutely protected *forum internum* dimension of freedom of religion or belief, does not permit any limitations whatsoever. For the same reason, the notion of moral values cannot be used to

legitimize pressure on converts or members of minorities, for example to make them reconvert to their previous religion or to follow mainstream religions or beliefs.

3. Freedom of "choice" — appropriateness of the term

59. The most fundamental objection against the right to freedom of religion or belief in the field of conversion is directed at the concept of "choice", which lies at the very heart of this human right. It has been argued that the language of "choice" does not appropriately reflect the existential dimension of a deep religious or philosophical conviction and the sense of belonging and loyalty that goes with any profound conviction. The Special Rapporteur shares the view that religion or belief is not just an item within a catalogue of commodities that individuals may take or leave according to their personal tastes or preferences. However, a similar statement could be made about marriage and partnership and other important human life issues. Obviously, the "choice" of a spouse should not resemble the selection of an item from a catalogue. So again, the language of "choice", as it comes up in human rights discourses on marriage and family life, inevitably fails to reach the existential significance of such an intimate relationship and sense of profound loyalty to which it is attached. Yet, having a right to free "choice" concerning partnership ar l marriage, as enshrined in international human rights documents, remains important, especially in the face of such phenomena as enforced marriage or child marriage, which, to this day, continue to exist.

60. The concept of "choice" makes sense especially in the sphere of law, including human rights law. Obviously, the language of law cannot reflect the full range of human experiences. In this regard, law has insurmountable limitations that one should always bear in mind. It remains true that a person's existential experience, be it in the field of religion or belief or in relation to marriage and other important human life issues, may go far beyond the understanding of just making a "choice". The legal language of human rights is not supposed to replace such experience, and it is by no means intended to lead to a "commodified" understanding of religion or belief or other significant issues relating to human life and human communities. The opposite is true. By establishing legal safeguards against different forms of coercion, human rights norms can arguably even contribute to the achievement of higher degrees of sincerity, earnestness, authenticity, profoundness, loyalty and commitment in questions of religion or belief.

61. It would thus be utterly wrong to delegitimize the concept of "choice" in the area of religion or belief, a concept particularly important when it comes to safeguarding the human rights of converts or those trying to convert others by means of non-coercive persuasion. Protecting every human being's freedom of "choice" is a perfectly appropriate way to institutionalize, in the specific sphere of human rights law, the axiomatic respect that is due to all human beings by virtue of their inherent human dignity. Respect for human dignity, however, necessarily implies respecting the various deep convictions and commitments of all human beings by legally guaranteeing their freedom to have and adopt a religion or belief of their own "choice".

IV. Conclusions and recommendations

62. The General Assembly has repeatedly and by consensus urged States to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience and religion or belief to all without distinction, inter alia, by providing access to justice and effective remedies in cases where the right to freedom of thought, conscience and religion or belief or the right to freely practise one's religion, including the right to change one's religion or belief, is violated (see General Assembly resolutions 60/166, 61/161, 62/157, 63/181, 64/164, 65/211 and 66/168).

63. In his daily work, however, the Special Rapporteur receives numerous reports of grave violations of the right to freedom of religion or belief in the broad area of conversion. In the present report, he has discussed this topic, distinguishing four subcategories that deserve systematic attention: (a) the right to conversion (in the sense of changing one's own religion or belief); (b) the right not to be forced to convert; (c) the right to try to convert others by means of non-coercive persuasion; and (d) the rights of the child and of his or her parents in this context.

A. Right to conversion

64. In addition to being exposed to manifestations of social pressure, public contempt and systematic discrimination, converts often face insurmountable administrative obstacles when trying to live in conformity with their convictions. Moreover, in a number of countries, they run the risk of losing jobs and educational opportunities, having their marriage nullified, being excluded from the right to inheritance or even losing custody of their children. In some States, converts may also face criminal prosecution, at times even including the death penalty, for such offences as "apostasy", "heresy", "blasphemy" or "insult" in respect of a religion or the country's dominant tradition and values. When seeking asylum, they may find that the genuineness of their conversion is questioned and may be deported back to their countries of origin where they may be confronted with aggravated risks to their life, freedom, well-being and security.

B. Right not to be forced to convert

65. Serious violations also occur in respect of the right not to be forced to convert against one's will. While some members of religious or belief minorities experience pressure to join a religion or belief deemed more "acceptable" in society, converts are often exposed to pressure to reconverting to their previous religion. Such pressure can be undertaken both by Government agencies and by non-State actors, including by directly linking humanitarian aid to expectation of conversion. The Special Rapporteur is particularly concerned about pressure or threats experienced by women, sometimes in the context of marriage or marriage negotiations, to convert to the religion of their (prospective) husband.

C. Right to try to convert others by means of non-coercive persuasion

66. **In addition, many States impose tight legislative or administrative restrictions on communicative outreach activities. This may unduly limit the right to try to convert others by means of non-coercive persuasion, which itself constitutes an inextricable part of freedom of religion or belief. Moreover, many such restrictions are conceptualized and implemented in a flagrantly discriminatory manner, for instance, in the interest of further strengthening the position of the official religion or dominant religion of the country while further marginalizing the situation of minorities. Members of religious communities that have a reputation of being generally engaged in missionary activities may also face societal prejudices that can escalate into paranoia, sometimes even leading to acts of mob violence and killings.**

D. Rights of the child and of his or her parents

67. **The Special Rapporteur has also received reports of repressive measures targeting children of converts or members of religious minorities, including with the purpose of exercising pressure on them and their parents to reconvert to their previous religion or to coerce members of minorities to convert to more socially "accepted" religions or beliefs. Such repressive activities may violate the child's freedom of religion or belief and/or the parents' right to ensure an education for their children in conformity with their own convictions and in a manner consistent with the evolving capacities of the child.**

E. Recommendations to various actors

68. **In general, the Special Rapporteur calls upon States to consistently respect, protect and promote the human right to freedom of religion or belief in the area of conversion. He reiterates that the right of conversion and its correlate, the right not to be forced to convert or reconvert, belong to the *forum internum* dimension of freedom of religion or belief, which has the status of unconditional protection under international human rights law. Furthermore, freedom of religion or belief includes the right to try to persuade others in a non-coercive manner. Any restrictions on missionary activities deemed necessary by States must therefore meet all the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights. The rights of the child and of his or her parents must be effectively guaranteed, including in the context of conversion issues.**

69. **With regard to domestic legal provisions, including constitutions, legal statutes, by-laws and official interpretations of laws, the Special Rapporteur recommends that:**

(a) **States should clarify that the human right to freedom of religion or belief includes the right to convert and the right not to be forced to convert, both of which are unconditionally protected;**

(b) **States should repeal any criminal sanctions that directly or indirectly threaten punishment against converts;**

(c) States should reform any family law provisions that may amount to de jure or de facto sanctions against converts and their families. This concerns the various areas of family law, including custody of children and inheritance laws;

(d) States should issue anti-discrimination legislation with a view to providing effective protection against discrimination on the grounds of religion or belief in various areas of society. Such legislation should also address the vulnerable situation of converts;

(e) States should ensure that no individual is exposed to pressure to convert against her or his will in the context of marriage and marriage negotiations. In this regard, States should pay particular attention to the situation of women. Aligning family laws with article 16 (1) of the Universal Declaration of Human Rights, according to which religious difference should not be an obstacle to the right to marry a person of one's choice, could be one important way of protecting potential spouses from pressure to convert against their will;

(f) States should further clarify that freedom of religion or belief includes the right to try to convert others by non-coercive means of communication and persuasion. This includes, inter alia, the dissemination of literature and other material relating to religion or belief;

(g) States should repeal vague provisions against so-called "proselytism", "unethical conversion", "apostasy" and "blasphemy" and should reform respective legislation to align it with the provisions of article 18 (3) of the International Covenant on Civil and Political Rights.

70. **With regard to different areas of administration, the Special Rapporteur recommends that:**

(a) States should ensure that converts are able to have their new religious or belief orientation registered or not registered in official documents as they wish. This should also include the religion or belief of their children, in keeping with the provisions of the Convention on the Rights of the Child. When issuing official documents, States should always ensure that no person is publicly exposed in her or his religion or belief against her or his will;

(b) States should ensure that no person is exposed to situations in which she or he may experience pressure to convert or reconvert against her or his will, especially in State-controlled institutions, such as the police force, the military or penal institutions;

(c) States should develop strategies on how to provide effective protection of converts from acts or threats of violence and other pressure from non-State actors;

(d) States should give clear direction and training to law enforcement and similar agencies to ensure that they refrain from unduly infringing on the right to try to convert others by means of non-coercive persuasion;

(e) States should not use visa rules to restrict non-coercive religious outreach activities;

(f) States should ensure that when applying for asylum, converts are given a fair hearing of their claims, in conformity with international standards. Converts seeking refugee status must never be expelled or returned to the frontiers of territories where their life or freedom would be threatened on account of their religion or belief.

71. **With regard to the area of school education, the Special Rapporteur recommends that:**

(a) States should ensure that when attending school, children are not exposed to religious instruction against their will or against the will of their parents or legal guardians, respectively. Moreover, no child should be at risk of being pressured to attend religious ceremonies or rituals in school against their will or against the will of their parents or guardians. In this regard, particular attention should be given to the situation of children of converts and members of religious or belief minorities;

(b) States should ensure that school curriculums, when providing information on religious or belief-related issues, contribute to the elimination of negative stereotypes and prejudices against converts and persons or groups engaged in non-coercive missionary activities. This should also be a guiding consideration for assessing the quality of textbooks used in schools;

(c) States should prescribe, organize and provide training for teachers to sensitize them about the particular needs and challenges of children of converts and children from religious minorities in the school situation.

72. **With regard to non-State actors, the Special Rapporteur recommends that:**

(a) Civil society organizations working on human rights should pay attention to the particularly vulnerable situation of converts and members of religious or belief minorities at risk of being forced to convert or reconvert against their will. They should develop strategies to empower such people based on the understanding that conversion constitutes an inextricable part of freedom of religion or belief;

(b) Public and private media should provide fair and accurate information about converts and persons or groups engaged in non-coercive missionary activities with a view to overcoming negative stereotypes and prejudices. Self-regulation mechanisms within the media can play an important role in this regard;

(c) Religious leaders and opinion formers should become aware and acknowledge that not only is conversion to their own religion or belief protected, but that any decision to replace one's current religion or belief with a different one or to adopt atheistic views is equally protected;

(d) Religious communities, interfaith groups and civil society and development aid organizations are encouraged to address issues of conversion and missionary activities in voluntary codes of conduct. They should use this as an opportunity to also promote more respectful attitudes towards converts and persons engaged in non-coercive missionary activities.

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Item 70 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephas Lumina, submitted pursuant to Human Rights Council resolutions 11/5 and 20/10.

* A/67/150.

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Report of the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

Summary

International financial institutions typically link the provision of loans, grants and debt relief to the implementation, by borrower countries, of economic reforms that often involve tight macroeconomic and fiscal policies, cuts in Government expenditure, public sector reform, privatization of public services and trade liberalization. The present report describes how such often harmful policies undermine the obligation of States to protect, promote and fulfil human rights, and how they have contributed to the impoverishment of millions around the world.

The report argues that women are disproportionately affected by debt and related conditionalities, and that debt and related economic reform policies have, in many contexts, contributed significantly to the impoverishment and marginalization of women, making basic social services even more inaccessible to them, thus deepening gender inequality and contributing to the feminization of poverty. It highlights the fact that most of the world's poor people, 6 in 10, are women and that this factor, and the routine exclusion of women from decision-making at all levels, increases their vulnerability to the negative impacts of the policies described above and the conditionalities introduced by their adoption.

The report recommends that States address the disproportionate impact of debt and related policy conditionalities on women by, inter alia, fully upholding their obligations relating to women's rights through the adoption of gender-sensitive policies and strategies. It also calls upon international financial institutions and other lenders to end the practice of linking harmful policy conditionalities to loans and debt relief programmes.

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I. Introduction

1. Excessive foreign debt burdens have an adverse impact on the realization of human rights and development in debtor countries through the diversion of resources from basic social services and through the policy conditionalities[1] attached to international debt relief mechanisms.

2. There is extensive evidence that the diversion of scarce national resources from basic education, health and infrastructure services to debt servicing significantly reduces the capacity of many poor developing countries to establish the conditions for the realization of human rights, particularly economic, social and cultural rights, or to make progress towards the achievement of the Millennium Development Goals.[2] In addition, the conditions that indebted countries typically have to fulfil in order to qualify for loans or debt relief not only undermine country ownership of national development strategies,[3] they often compel further reductions in Government spending on basic services and the implementation of other economic reforms, including privatization and trade liberalization, in order to generate funds for debt servicing. Under such circumstances, several human rights, including the rights to education, health, adequate housing, work, food, water and sanitation, are placed under threat or violated and millions face poorer living conditions.

3. The effects of debt-servicing and policy conditionalities are not gender-neutral. Owing to their traditional role in society, and the multiple forms of discrimination that they suffer, women tend to be disproportionately affected by debt and associated economic restructuring policies. The prevalence of women in informal employment, their heavy burden of work, their role in caring for children and for ailing and elderly family members, their limited access to land, property and social security, their primary role in providing food and water for their families and their prevalence in subsistence agriculture leave women vulnerable to the economic hardship associated with debt and austerity (A/64/279).

4. Responses to debt crises that involve cuts in public spending on social services, downsizing of the State apparatus and the liberalization of trade and labour markets primarily affect women, inter alia, by: reducing their access to health, education, water and food; curtailing their protection under social safety nets, which are mostly

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[1] The term "conditionalities" refers to macroeconomic targets, policy and institutional reforms that a debtor State must achieve or implement in order to receive (or continue to receive) loans or relief on old debts.

[2] A/HRC/12/WG.2/TF/2, para. 87; see also International Development Association (IDA) and the International Monetary Fund (IMF), "Heavily Indebted Poor Countries (HIPC) Initiative and Multilateral Debt Relief Initiative (MDRI): Status of Implementation and Proposals for the Future of the HIPC Initiative", 8 November 2011; and World Health Organization (WHO) and United Nations Children's Fund (UNICEF), Countdown to 2015 Decade Report.

[3] See, for example, Sabine Michalowski, "Sovereign Debt and Social Rights: Legal Reflections on a Difficult Relationship", *Human Rights Law Review*, vol. 8, No. 1 (2008), p. 5; and Noel G. Villaroman, "A fate worse than debt: an alternative view of the right to development and its relevance to the external debt problem of developing countries", unpublished thesis, Monash University, Australia, 2010, pp. 65-69. It is widely accepted that country ownership of national development strategies is the foundation of development effectiveness and aid effectiveness; see United Nations Conference on Trade and Development (UNCTAD), *The Least Developed Countries Report 2010: Towards a New International Development Architecture for LDCs* (United Nations publication, Sales No. E.10.II.D.5).

designed to protect male breadwinners; forcing women into precarious and unsafe jobs in the informal economy; and imposing further responsibilities for caring for the family on women.

5. The economic models traditionally adopted to respond to debt problems are predominantly designed taking into account the practices and institutions underpinning a country's formal economy. However, in most countries, particularly developing countries, women's economic activity and social engagement takes place, for the most part, in the informal economy. Thus, economic models and budget formulations rarely respond to the needs of women. This leads to an ever-growing gap between men and women's opportunities to enjoy their economic, social and cultural rights, as well as to participate fully and actively in public life and social development.

6. Using the human rights principles of equality, non-discrimination and participation as a framework for analysis, the report discusses the impact of foreign debt and related policy conditionalities on the realization of women's rights, in particular their economic, social and cultural rights.

II. Framework for analysis

7. The principles of equality, non-discrimination and participation are essential components of human rights law and their comprehensive observance is vital for women in achieving the realization of their human rights.[4] In order to reduce existing inequalities between men and women, all States have an obligation to ensure non-discrimination.[5] This cross-cutting obligation is an immediate one that is binding on all States, regardless of their level of development and even in times of severe resource constraints.[6] While States are under the obligation to address direct discrimination found in laws, policies and practices overtly affecting women, they must also tackle any indirect discrimination found in apparently neutral measures or practices in the public or private sphere, which, de facto, have a detrimental effect on women.[7]

8. Accordingly, ensuring non-discrimination against women entails repealing discriminatory laws, policies and practices, incorporating the principle of equality and non-discrimination in all laws and policies, prioritizing the needs of women, facilitating the participation of women in decision-making on policies and issues affecting their lives, allocating equitable resources and services to ensure the realization of women's rights and guaranteeing that the prohibition of discrimination against women is respected by private actors.

9. Non-discrimination and equality also imply the obligation to recognize and respond to the differences and specific needs of women. The requirement that "likes should be treated alike" addresses formal exclusionary norms. Nonetheless,

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[4] See E/C.12/GC/20, para. 2.

[5] See for example Universal Declaration of Human Rights, article 2; International Covenant on Civil and Political Rights, article 3; International Covenant on Economic, Social and Cultural Rights, article 3; and Convention on the Elimination of Discrimination against Women.

[6] See CEDAW/C/GC/28, para. 29; Committee on Economic, Social and Cultural Rights, general comment No. 3, para. 1; and E/C.12/GC/20, paras. 7 and 13.

[7] CEDAW/C/GC/28, para. 16, and E/C.12/GC/20, para. 10.

protection against discrimination needs to go further to include some special measures, or affirmative action, to rectify the cumulative adverse effects of structural and historical inequalities on the rights of women. This can help level the playing field and obtain substantive equal treatment for women.[8] In this regard, article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women stresses the need for temporary special measures to accelerate de facto equality between men and women.[9]

10. The principles of equality, non-discrimination and participation are reflected in the comprehensive international human rights legal framework which is focused on ensuring the enjoyment of all human rights and eliminating all forms of discrimination against women. In addition to the Convention on the Elimination of All Forms of Discrimination against Women, other international instruments also contain explicit provisions guaranteeing women equality with men in the enjoyment of the rights they enshrine, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.

11. The Convention on the Elimination of All Forms of Discrimination against Women elaborates on the meaning of non-discrimination based on sex. Under the Convention, States parties are required to adopt laws, policies, plans and programmes to eliminate the many different forms of sex-based discrimination that women face. The Convention guaranteed the equal rights of men and women with regard, inter alia, to education, work and work-related benefits, social security and health care.[10]

12. Under article 7 of the Convention, States parties must adopt all appropriate measures to ensure equal participation of women in the formulation and implementation of government policy, as well as guarantee the right to hold public office.

13. The Convention devoted particular attention to the situation of rural women and urged States to take into account their role in the economic survival of their families, as well as their work in the non-monetized sectors of the economy.[11] It urged States parties to: (a) adopt all appropriate measures to ensure that women in general, and rural women in particular, enjoy adequate living conditions, especially in relation to housing, sanitation, electricity and water supply, transport and communications; (b) participate in the elaboration and implementation of development planning at all levels; (c) have access to adequate health-care facilities and social security programmes; (d) have access to agricultural credits, marketing facilities and technology; and (e) enjoy equal treatment in land and agrarian reform, as well as in land resettlement schemes.[11]

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[8] See E/C.12/GC/20, paras. 9 and 12.

[9] See Convention on the Elimination of Discrimination against Women, general recommendation No. 25 (2004).

[10] See Convention on the Elimination of Discrimination against Women, articles 10, 11 and 12.

[11] Ibid., article 14.

14. Other notable international documents addressing women's rights include the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women, held in Beijing in 1995, the Political Declaration adopted at the five-year review of the Fourth World Conference in 2000, the Doha Declaration on Financing for Development (2008) and various conventions of the International Labour Organization (ILO).[12]

15. In the Beijing Declaration, Member States made a commitment to ensure the implementation of women's rights and to implement and monitor gender-sensitive policies and programmes, including development programmes, with the full participation of women. It highlighted the role of women as agents of development and as key contributors to the economy and to the fight against poverty through their remunerated and unremunerated work. However, it stressed that, despite their vital role in the community, many women are denied access to education, employment, housing and economic self-sufficiency and are excluded from decision-making processes. Moreover, families where mothers are the main economic support are often among the poorest because of wage discrimination, occupational segregation patterns in the labour market and other gender-based barriers. These limitations obstruct the potential of women to contribute to their communities and to development. For these reasons, the Beijing Platform for Action urged States to promote women's independence and to eradicate the burden of poverty on them by addressing the structural causes of poverty and ensuring their equal access to productive resources, opportunities and public services. The Platform thus recognized that the empowerment of women is a critical factor in the eradication of poverty.[13]

16. The Platform also dealt comprehensively with the issue of debt as it affects women. It stressed that foreign debt and structural adjustment programmes had directly affected women, mainly as a result of the reduction in social expenditures and the shift of responsibilities from Governments to women. It also recognized that in adopting economic policies, including structural adjustments, their impact on women was not always considered, and expressed concern over the continued marginalization and economic underdevelopment of rural women in this context. More specifically, the Platform indicated that persistent and unmanageable levels of external debt and structural adjustment programmes are among the reasons for the increase of poverty of women, which is also directly linked to the absence of economic opportunities, resources, education and support services. The Platform therefore recommended that States analyse policies and programmes, including structural adjustment and debt solutions, from a gender perspective, including with respect to their impact on poverty levels among and inequality of women. It also recommended that States allocate public resources to promote women's economic opportunities, and collaborate with international financial institutions to find solutions to external debt problems that allow the financing of programmes aimed at the advancement, empowerment and equality of women.[13]

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[12] Among the key ILO instruments are Convention No. 111 (1958) concerning discrimination in employment and occupation, Convention No. 100 (1951) concerning equal remuneration, Convention No. 156 (1981) concerning workers with family responsibilities and Convention No. 183 (2000) concerning maternity protection.

[13] See *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex II.

17. The Political Declaration adopted at the five-year review of the Beijing Declaration and Platform for Action (resolution S-23/2) stated that the implementation of both the Platform for Action and the Nairobi Forward-looking Strategies for the Advancement of Women should be made through the mainstreaming of a gender perspective into all policies and programmes. Furthermore, the declarations adopted by the Commission on the Status of Women at its 10- and 15-year reviews both emphasized that the effective implementation of the Beijing Declaration and Platform for Action was essential to the achievement of the Millennium Development Goals.[14] Similarly, the General Assembly in its resolution S-23/3 on further actions and initiatives to implement the Beijing Declaration and Platform for Action, underscored the fact that the impact of structural adjustment programmes and the high costs of debt servicing have aggravated the feminization of poverty and constrained the capacity of States to promote social development and provide basic services. The Assembly also identified the excessive hardships imposed on women as a result of economic restructuring and the withdrawal of services provided by the State. In this connection, the Assembly pointed out that women are the first to lose their jobs in times of recession and that they continue to suffer unequal access to training and productive assets. The Assembly called for the review, modification and implementation of macroeconomic and social policies to ensure women's equal access to resources and basic social services.[15]

18. The Doha Declaration on Financing for Development reaffirmed the commitment of States to eliminate gender-based discrimination and promote women's rights by: (a) eliminating discrimination in the labour and financial markets; (b) eliminating discrimination in the ownership of assets and property rights; (c) promoting women's economic empowerment; (d) giving women full and equal access to economic resources; (e) mainstreaming gender perspectives in economic programmes, law reforms and business support services; and (f) promoting the adoption of gender-responsive public management, including through gender-budgeting systems.[16]

19. The General Assembly, in its resolution 62/206 on women in development and its resolution 62/136 on the improvement of the situation of women in rural areas, encouraged Governments to: (a) create opportunities for the economic empowerment of women; (b) alleviate the burden of time-consuming daily tasks for women; and (c) adopt the necessary legal and administrative reforms to ensure that rural women are given full rights to own land and other property, access credit and financial markets, and access relevant information and technologies.[17]

20. The issues of equality, non-discrimination and participation as they relate to the realization of women's rights have also been addressed in the Millennium Development Goals and by the human rights treaty bodies. The human rights treaty bodies have also made observations concerning the impact of debt and related economic policy reforms on women.

21. Millennium Development Goal 3 establishes the need to promote gender equality and the empowerment of women, focusing on the necessity of guaranteeing equal opportunities by providing access to education for girls and stability for

[14] E/CN.6/2005/11 and Corr.1, chap. I.A, para. 3, and E/CN.6/2010/11 and Corr.1, chap. I.A, para. 3.

[15] Resolutions S-23/2, para. 8, and S-23/3, paras. 37-39 and 74 (c).

[16] Resolution 63/239, annex, para. 19.

[17] Resolutions 62/206, para. 1, and 62/136, para. 2 (q). See also resolutions 66/129 and 66/216.

women employed in the agricultural sector. It is widely accepted that progress on Goal 3, to promote gender equality and empower women, is integral to the achievement of other Goals, including Goal 8, which addresses foreign debt.

22. In its general recommendation No. 23, the Committee on the Elimination of Discrimination against Women noted that women have been usually assigned to the private or domestic sphere, which most societies treat as inferior. That designation, coupled with women's double burden of work (at home and in employment) and their economic dependence on men, has traditionally resulted in the exclusion of women from political decisions and public life, despite their fundamental role as the main sustainers of the family and society, and their vital contribution to development. In that context, the Committee has underlined the need for equality between men and women in the political and economic fields and the active involvement of women in decision-making at all levels. With regard to the particular situation of rural women, the Committee has also stressed, in its general recommendation No. 24, that States should take all necessary steps to facilitate physical and economic access to productive resources for rural women.

23. In its general recommendation No. 28, the Committee stressed, that in order to prevent discrimination, due diligence should be observed in relation to the activities of private actors in the education, employment and health-care areas, as well as in any other areas where non-State actors provide services, for example the banking and housing sectors.[18]

24. The Committee on the Elimination of Discrimination against Women also addresses the issue of debt and the feminization of poverty. In its concluding observations on the second periodic report of Guyana of 2001, the Committee recognized that the implementation of structural adjustment programmes and the increase of the debt burden, coupled with political instability, have impeded progress in the full realization of women's rights.[19]

25. In its concluding observations on the sixth and seventh periodic reports of Portugal in 2008, the Committee addressed the rights of women's organizations in the context of structural adjustment and stressed that such reforms to the national machinery should not restrict or negatively affect the capacity of women's organizations to contribute to the implementation of the Convention.[20]

26. With regard to the situation of rural women, in its concluding observations on the sixth periodic report of Brazil in 2007, the Committee pointed out that rural development policies should integrate a gender perspective and address the structural nature of poverty faced by rural women, and encouraged the Government to act in the areas of public health, education, literacy, enterprise development, skills training and microfinance, among others.[21]

27. The Committee on Economic, Social and Cultural Rights has also addressed the social and economic vulnerability of women. In its general comment No. 16, the Committee recalled that respecting and protecting the economic, social and cultural rights of women obliges States to conduct gender-based due diligence in the

[18] See also CEDAW/C/GC/28, para. 13, and Committee on Economic, Social and Cultural Rights, general comment No. 16, paras. 3 and 16.

[19] A/56/38, para. 161.

[20] CEDAW/C/PRT/CO/7, para. 23.

[21] CEDAW/C/BRA/CO/6, para. 32.

adoption of every law, policy or administrative measure in order to ensure that they do not impact negatively on the rights of women. It also entails ensuring that the conduct of non-State actors, including partially or fully privatized companies providing public services, do not obstruct women's enjoyment of those rights. States are also under the obligation to promote the equal participation of women in development planning and decision-making processes, as well as their representation in public office.[22]

III. Impact of debt and related policy conditionalities on women's rights

28. The information presented in this section is drawn from a range of sources, including information submitted to the independent expert in May 2012 by the Asia Pacific Forum on Women, Law and Development on the impact of foreign debt on women in the Asia-Pacific region, including the concluding observations of the treaty bodies (particularly, the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights).

29. International financial institutions, notably the World Bank, the International Monetary Fund (IMF) and the regional development banks, typically require borrower countries to reform their policies as a condition for loans, grants and debt relief.[23] Policy-based loans and debt relief often require that debtor or borrower countries implement reforms such as: privatization of State-owned enterprises (including electricity generation and distribution facilities, water utilities and telecommunications); reduction of Government spending for public services; wage freezes; introduction of user fees for basic services such as health and education; trade liberalization (involving removal or reduction of subsidies and import tariffs and promotion of exports); deregulation of investments; fiscal and monetary reforms (strict inflation targeting, accumulation of international reserves, currency devaluation and expansion of domestic credits); taxation reforms (such as introduction of a value-added tax and other regressive taxes, tax holidays for foreign corporations); and land reform (such as changes to laws governing ownership of land by foreigners).

30. Although the ostensible aim of these conditionalities is to promote economic growth and prosperity and to restore the debt-servicing capacity of borrower countries,[24] some research shows that, in fact, they have a negative impact on the realization of human rights over the longer term and that they have contributed to increasing poverty and the marginalization among the poor in many debtor

[22] E/C.12/2005/4, paras. 18, 20, 21, 28 and 30.

[23] Although the World Bank and IMF claim to have reduced the number of conditions attached to their loans, studies indicate that little has changed. Policy conditions, including privatization, cuts in public expenditure and liberalization, continue to be attached to loans and debt relief. See, for example, Nuria Molina and Javier Pereira, "Critical conditions: the IMF maintains its grip on low-income governments" (European Network on Debt and Development (EURODAD), April 2008); and B. Muchhal, N. Molina, P. Chowla and S. Ambrose, "IMF financial package for low-income countries: Much ado about nothing?" (2009).

[24] See IMF factsheet, IMF Conditionality, 30 March 2012 (www.imf.org/external/np/exr/facts/conditio.htm).

countries.[25] The adverse impacts of policy conditions attached to loans and debt relief include slower economic growth, increased unemployment, destruction of social safety nets, rising food prices, falling real incomes in poor households and increasing levels of poverty. Policy conditions also limit investment in basic social services and undermine debt relief efforts.[26]

31. Owing to their vulnerability and marginalization in many poor countries, women are disproportionately affected by debt and related economic restructuring. The social effects of debt obligations and economic slowdown affect women's employment, wages and access to essential goods and services and may even lead to a reduction in their levels of consumption and their access to services as they attempt to compensate for declining family income. Moreover, as services are cut and fees introduced to generate additional State revenues, women are, by default, the ones who must fill the gaps left in provision. While this enables their communities to weather the debt crisis, it reinforces the exclusion and dependency of women. To compound the situation, gender considerations are absent in these programmes and the resources borrowed from abroad are generally not allocated with the special situation of women being taken into account.

32. The following sections discuss the gender impacts of common policy conditionalities.

A. Austerity measures

33. Austerity programmes are often prescribed by multilateral lenders with the ostensible aim of addressing public deficits in debtor countries, usually through the reduction in the amount of benefits and public services provided by the State. They have long been a feature of international financial institution loan and debt relief packages for developing countries. Since 2009, however, strict austerity programmes have also been implemented in developed countries as a condition for the reduction of public debt with the aim of addressing public budget deficits said to have been occasioned by extensive spending under social welfare budgets during the financial and economic crisis and of promoting economic recovery. Nevertheless, the effectiveness of such measures has been questioned.

34. According to the United Nations Conference on Trade and Development (UNCTAD), the austerity programmes imposed upon certain countries, both currently and in the past, have largely had a negative impact on economic growth and fiscal balances because they significantly alter public revenue schemes, thus undermining any intended positive effects.[27] The available evidence suggests that the positive effects of IMF programmes have been largely overestimated. Similarly, a recent study by Friedrich-Ebert-Stiftung, a non-profit organization, on the current

[25] See, for example, Peter Hardstaff, "Treacherous conditions: How IMF and World Bank policies tied to debt relief are undermining development" (2008); Jeffrey D. Sachs, *The End of Poverty: Economic Possibilities for Our Time* (Penguin Press, 2005); and Martin J. Dent and Bill Peters, *The Crisis of Poverty and Debt in the Third World* (Ashgate, 1999).

[26] See John Weeks and Terry McKinley, "Does debt relief increase fiscal space in Zambia? The MDG implications", country study No. 5 (UNDP, International Poverty Centre, 2006).

[27] UNCTAD, *Trade and Development Report 2011: Post-crisis policy challenges in the world economy* (United Nations publication, Sales No. E11.II.D.3).

austerity programmes in Europe concludes that they overwhelmingly focus on public spending cuts with negative redistributive effects.[28]

35. In a recent report on austerity measures, the Parliamentary Assembly of the Council of Europe concluded that from an economic perspective, "cuts in government expenditures, social safety nets or wages are not effective measures against the (debt) crisis, given that they especially affect lower income groups and further undermine their capacity of consumption and self-subsistence".[29]

36. The implementation of austerity measures typically undermines the enjoyment of social and economic rights, given that austerity measures are often applied to public social services and programmes and thus tend to affect those already dependent on social welfare or lacking access to social services. In countries where they have been implemented, austerity measures have significantly increased health and education costs, thus undermining the enjoyment of economic, social and cultural rights. In Spain, for example, unemployment has reached over 24 per cent as a result of austerity measures.

37. There is evidence suggesting that the cumulative effect of fiscal measures taken to reduce net public spending is disproportionately greater on women, leaving many poorer.[30] The areas of spending traditionally targeted for cuts have been health[31] and education services, welfare assistance, development projects and other social expenditures. As women rely more than men on public services and welfare assistance, they are disproportionately affected by spending cuts imposed in the context of austerity measures.[32] For example, cutbacks in public health expenditures mean that women must spend more time taking care of sick family members, which reduces the amount of time available for remunerated work.[33] In response to such cutbacks, women are usually forced to increase household income by working longer hours, usually in the lowest earning informal sector jobs, and to increase the hours of unpaid work to make up for shortfalls in public services, notably in health care.

38. Austerity programmes, which usually include the introduction of user fees for essential public services, such as health care and education, to supplement or partly substitute Government spending or to help indebted countries raise funds for debt servicing, have resulted in the exclusion of poor women and girls from essential services, including primary education and reproductive health care, and have restricted their access to antiretroviral medicines. User fees have therefore led to higher maternal mortality rates in many countries, as well as lower literacy rates for women and girls.[32]

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[28] Arne Heise and Hanna Lierse, *Budget consolidation and the European social model* (Friedrich Ebert Stiftung, March 2011).

[29] Committee on Social Affairs, Health and Sustainable Development, "Austerity measures — a danger for democracy and social rights" (Council of Europe, Parliamentary Assembly, 2012).

[30] See, for example, "The Impact of Austerity on Women", Fawcett Society policy briefing, March 2012.

[31] Reductions in health spending range from cuts in personnel (usually women) to closures of hospitals and clinics, especially in rural areas, leaving many women without access to badly needed health care and medicines.

[32] See Gender Action, Gender Toolkit for International Finance Watchers, February 2011.

[33] See Suzanna Dennis and Elaine Zuckerman, Gender Guide to World Bank and IMF Policy-Based Lending (Gender Action, 2006).

39. Although user fees can provide much needed revenues for health-care systems in developing countries, they can be a regressive measure, as lower income households, which depend most on such services, must devote a larger proportion of their income to obtaining them. In this context, it is important to consider that user fees may act as a deterrent to those seeking needed care, especially poor women. Owing to income inequalities and insufficient access to resources and assets, when poor women face out-of-pocket costs, the cost of such care may be out of reach.[34] Women, who largely rely on these services, often cannot afford to pay even a small fee. This may have long-term implications for women's enjoyment of their economic, social and cultural rights.

40. Policy conditionalities often force Governments to raise revenues by imposing regressive taxes, for example value-added taxes, on goods and services. However, as these taxes apply uniformly to all segments of society, tax increases disproportionately affect the poor, who must pay a larger proportion of their income in taxes. Since women tend to have lower incomes than men, and since they make up the majority of the poor, regressive taxes take a larger proportion of their earnings. In addition, poor and rural women, as well as women breadwinners, see their real income and purchasing power reduced as they must spend more money to pay for essential food and services. Faced with insufficient resources, women may be forced to reduce their food intake or their access to essential services to provide for their families.

41. The independent expert is of the view that to avoid regressive taxes deepening gender inequality, States should exempt goods such as basic foodstuffs and medicines from value-added taxes. Instead, revenue should be raised through limiting tax breaks for private corporations, taxing financial speculation and addressing tax evasion.[35]

42. Debt-ridden Governments are often forced to retrench by reducing the number of public sector employees or freezing wages in the sector in order to save money to service the debt. Women often bear the brunt of cuts to public sector jobs, wages and pensions implemented as part of deficit reduction measures as they are often the first to lose jobs, largely due to their irregular contractual situation and the social assumption that men are the breadwinners. For example, the Office for Budget Responsibility in the United Kingdom estimates that 710,000 jobs will be lost in the public sector by 2017 as a result of public spending cuts.[36] Those job losses will have a significant impact on women since they account for 64 per cent of the public sector workforce.[30] Without employment and social benefits or pensions, women sink further into poverty.

43. Strategies to cope with the impact of reduced public spending can result in girls being withdrawn from school to supplement family income, increased prostitution, trafficking of women and girls, higher rates of HIV/AIDS infection and other violations of women's human rights.[33]

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[34] See Priya Nanda, Gender dimensions of user fees: Implications for women's utilization of health care, Center for Health and Gender Equity, 2002.

[35] See Ha-Joon Chang and Ilene Grabel, *Reclaiming Development: An Alternative Economic Policy Manual* (ZedBooks, 2004).

[36] See Office for Budget Responsibility, "Economic and fiscal outlook", November 2011 (http://cdn.budgetresponsibility.independentgov.uk/Autumn2011EFO_web_version_138469072346.pdf).

44. The independent expert considers that taking girls out of school as a coping strategy not only diminishes their chances to break out of the poverty trap but also violates the principles of equality and non-discrimination.

B. Privatization

45. Access to basic services, such as health care, education, water and sanitation, are basic human rights that are essential to the well-being of individuals. In developing countries, these services have traditionally been provided by Governments free of charge or at low cost. In order to reduce Government spending and generate revenue for debt servicing, [37] however, international financial institutions often require that debtor countries privatize ownership and/or operation of public utilities and services such as water, sanitation, electricity, health care and education. These utilities are usually purchased by private corporations based in developed countries.

46. Since private corporations are motivated by profit, they tend to focus on improving cost recovery and efficiency. As this section shows, privatization often results in price increases which limit poor people's access to basic services. Another consequence of privatization has been the significant deterioration of the quality of services.

47. It is notable that in its general recommendation No. 28 the Committee on the Elimination of Discrimination against Women stressed that in order to prevent discrimination against women due diligence should be observed in relation to the activities of private actors in the education, employment, and health areas, as well as in any other areas where non-State actors provide services.

1. Right to health

48. The privatization of public health services and the associated introduction of user fees in many developing countries have limited access to health services for vulnerable groups, including the poor, HIV-positive persons, sex workers, rural and indigenous women and migrant workers. In one country, for example, market-oriented health reforms, including privatization and financing of services through user fees or insurance appears to have made many health services inaccessible for rural women. [38] Among the total number of poor in the country (approximately 47 per cent), 70 per cent are women, more than 60 per cent of whom live in the rural areas.

49. In another country, the privatization of the State marketing board and the strategic grain reserve as a condition for debt relief, coupled with drought and floods, resulted in a food crisis that was reported to have forced desperate rural women and girls into and early marriage and, in some cases into sex work, thus increasing their exposure to HIV/AIDS. [39]

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[37] The other reasons for privatization include the need to create incentives for foreign investments and tackle the perceived inefficiencies of public management of services and enterprises.

[38] Asia Pacific Forum on Women, Law and Development, "Trapped: women bound by the chains of debt", submission to the independent expert (2012).

[39] Irene Phalula, "Malawi food crisis hits women hardest", 8 December 2005 (www.genderlinks.org.2a), see "Gender Guide to World Bank and IMF Policy-Based Lending" (2006).

50. In many cases, in response to increasing health-care costs, women and girls are forced to quit their jobs or leave school in order to care for ailing family members.

51. Rising costs limit access to services for women from low-income groups, as does gender-based inequality in access to and control over resources. The feminization of poverty creates specific difficulties for women in accessing health-care services, including sexual and reproductive health services, when such services are privatized and/or subject to user fees.

2. Right to education

52. Women are less likely than men to be educated, and in general they have less access to technologies and information. Cuts in education shift a significant part of the burden of education from the State to the family. When budgets shrink families tend to prioritize the education of boys over girls. As a result, more girls than boys are withdrawn from school to save tuition fees and other schooling costs, help with household work and find work to help with the family's increasing expenditures. As is too often the case, some girls may never return to school.[40]

53. As a result of the above-mentioned factors, there is a widening education gap between men and women (A/64/279, para. 40). The long-term costs of female illiteracy have an intergenerational impact on families and communities, and are difficult to reverse. Insufficient education also affects women's empowerment and their opportunities to fully participate in decision-making and public life, as they lack the skills to obtain better employment and have no access to basic information and technologies to lead their social, economic and family life. Insufficient female education can thus have significant social setbacks, including reduced household nutrition, increased child and maternal mortality and increased fertility.

3. Right to water and sanitation

54. In developing countries, women are primarily responsible for the collection, use and management of water for family consumption, as well as for the disposal of household waste. Such services have been targeted for privatization in debt-ridden countries. Privatization of water services usually entails increased fees, making water a larger part of poor household spending. In some cases, according to information from a non-governmental organization, privatization also involves cuts in services in certain areas and the relocation of water networks to more profitable locations. If the source of water is located at a distance from their homes, women must dedicate more time and effort to collect water; time which could have been used in more productive ways. Rural areas may remain without access to clean drinking water after privatization, forcing women to travel to collect water from communal faucets.

55. In addition, inadequate access to water significantly increases women's burdens as caregivers and household providers.

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[40] According to the World Bank and IMF, evidence from previous crises indicates that primary education completion decreases 29 per cent for girls and 22 per cent for boys during economic recession. Moreover, the female to male ratio of enrolment in school during crises falls 7 per cent for primary school, 15 per cent for secondary school and 40 per cent for higher education. See World Bank and IMF, *Global Monitoring Report 2010: The Millennium Development Goals after the Crisis* (Washington, D.C., 2010).

56. Poor women are often forced to use poor quality water, putting themselves and their families at risk of getting water-borne diseases. This is a particularly frightening alternative since 80 per cent of all illnesses are transmitted by contaminated water.[41] Water-related illnesses also drain limited household budgets as funds are diverted for medical expenses and/or purchase of water from small-scale vendors at exorbitant prices.

57. In one country, debt cancellation was made conditional on the privatization of the largest city's water and sewerage authority. The water supply facilities were sold to a private company, City Water, a joint venture between private companies based in two European countries, and the host country. This policy proved disastrous, resulting in reduced access to water for the poorest, both through cuts in services and through increased fees.[42] In this circumstance, although women have the primary responsibility for fetching water, the venture had o[illegible] to consider household gender relations or the needs of women and girls in the process. The profits from the high water prices were reaped by the company and other vendors of water, while poor women and girls continued to walk long distances to fetch water or to spend most of their household income on water instead of much needed food and education.[33] The Government nationalized the water supply system in 2005.

4. Right to work

58. Privatization of State-owned enterprises has also affected women's employment in many countries. The transfer of public companies to private hands has commonly been followed by processes of organizational restructuring and downsizing. These processes have had a proportionately greater impact on women owing to embedded gender stereotypes in the labour market, as well as the overrepresentation of women in the public sector workforce. Women are often the first to lose jobs and the last to be rehired because they are assumed to be secondary breadwinners.

C. Trade liberalization

59. Trade liberalization,[43] like privatization, is a key policy condition for the provision of loans or debt relief by international financial institutions to developing countries.[44] It involves measures such as the elimination of barriers to imports, the removal of subsidies and the scaling up of exports.

60. Although it is expected to create a supportive environment for trade and investment as well as stimulate export industries, all of which would provide much

[41] UN-Women, Women and Water UNIFEM Fact Sheet "At a Glance — Women and Water" (www.unifem.org/materials/fact_sheets.php?storyID=289).

[42] Romilly Greenhil and Irene Wekiya, "Turning off the taps: Donor conditionality and water privatization in Dar es Salaam, United Republic of Tanzania" (ActionAid International, September 2004).

[43] For a discussion of trade liberalization and its impact on human rights, see A/65/260.

[44] A study of HIPC decision-point documents for 26 countries found that all mentioned a previous, ongoing or future privatization process; 23 referred to past efforts to liberalize and 11 mentioned an ongoing process of liberalization. See Peter Hardstaff, "Treacherous conditions: How IMF and World Bank policies tied to debt are undermining development", World Development Movement, May 2003.

needed foreign currency to service debt payments, trade liberalization has resulted in reduced State revenues from tariffs, forcing Governments to cut spending to balance their accounts. As an alternate measure, Governments could compensate for the loss of tariff revenues by increasing domestic taxes, thus shifting the burden to domestic consumers. As explained above, reduced public spending and increased consumer taxes have a detrimental effect on women's enjoyment of economic, social and cultural rights. Moreover, trade liberalization, which allows the influx of foreign goods, coupled with the reduction of subsidies, makes it impossible for local industries and farmers to compete. These factors have a negative impact on women's employment and food security, and increase overall poverty levels.

1. Access to land and livelihoods

61. In most countries, land is a critical asset, particularly for the poor. Land tenure provides economic access to markets and social access. In addition to economic and social access, access to land confers rights to other resources such as pasture, water and trees. For many, the loss of land and agricultural opportunities means the loss of their livelihoods.

62. Trade liberalization has affected access to land for local communities in many developing countries. Some multilateral and regional agencies have provided financing and technical assistance for land sector deregulation to facilitate foreign direct investment. In some countries, the deregulation and privatization of land holdings has changed land distribution and local farming practices and has resulted in the replacement of indigenous plants with new crops. This has curtailed the access of local communities to land, natural resources and native foods.

63. For example, a recent study by the Oakland Institute has found that the World Bank, through a range of foreign direct investment policies, has facilitated the acquisition of land, often for institutional investment in large-scale commercial agribusiness. These acquisitions have largely been unregulated and have yielded few of the promised benefits to local communities. Instead, they are forcing thousands of small farming communities off ancestral lands, creating environmental destruction and food insecurity.[45] Such forms of land acquisition also fail to comply with the Bank's principles on large-scale responsible agricultural investment.[46]

64. Land deregulation has had a particularly adverse impact on women. Women, who account for 70 to 80 per cent of the world's small-scale farmers and, in some regions, provide up to 70 per cent of agricultural labour and produce more than 90 per cent of the food,[47] are often the first to lose their livelihoods in affected communities and the last to find work in formal sectors.

65. Trade liberalization can also cause massive job losses as local markets are eroded by the flood of imported goods. The destruction of domestic-oriented industries and farms results in widespread loss of livelihoods and employment in traditional industries, and has an adverse impact on female workers and farmers. As women are the first to lose their jobs and livelihoods, they resort to informal or

[45] Oakland Institute, "Dealing with disclosure: Improving transparency in decision-making over large-scale land acquisitions, allocations and investments", April 2012.

[46] See A/HRC/13/33/Add.2 for a discussion of large-scale land acquisitions and leases.

[47] See UN-Women (http://www.unifem.org/gender_issues/women_poverty_economics).

domestic work where they face poor working conditions, exploitation and even sexual abuse.

66. In many indebted countries, administrative and legislative reforms have been imposed as part of the trade liberalization agenda promoted by the international financial institutions to facilitate flexible labour arrangements. Although such reforms are expected to increase economic efficiencies and attract transnational corporations, such deregulation can result in the lowering of labour standards, with a particularly negative impact on women's working conditions.[33] Without formal education and marketable skills, many women are left at risk of trafficking and sexual exploitation, including exposure to sexually transmitted diseases.

67. In situations of growing unemployment and economic distress, women have resorted to employment in the domestic and export sectors. In many developing and emerging economies, women make up 60 to 80 per cent of workers in the manufacturing sector,[47] particularly in export processing zones and global supply chains, industries that are often characterized by irregular contracts, substandard working conditions, long working hours and lack of social and unemployment benefits. Workers in export processing zones work 25 per cent longer than in other areas, and women are paid 20 to 50 per cent less than men.[48] Women are forced to relinquish overtime pay and medical leave, and to accept deteriorating health, abuse and harassment.

68. Apart from loss of livelihoods, women risk increased care work, forced prostitution and human trafficking, rape or sexually transmitted diseases owing to the presence of industries (such as extractive projects) located in their communities as a result of investment promotion policies undertaken in the context of liberalization.

69. As a result of increased unemployment and poverty, there has been an increase of migration between and within countries. Patterns of migration have become more undocumented and feminized. Many debtor countries have become net exporters of female labour. Younger women, who form a large part of the migrant labour force, find jobs in other countries in the domestic, export and tourism sectors. Undocumented and deprived of labour protections, women are more vulnerable to exploitation, violence, and trafficking. In some countries, women make up to 80 per cent of the migrant population and the majority are employed as domestic workers.[49] Moreover, according to one non-governmental organization, labour export has become the leading industry in some East Asian industries affected by structural adjustment programmes, and the biggest source of foreign exchange for debt servicing.

70. For indigenous women, liberalization has created a number of problems, including: (a) displacement from their land and the subsequent destruction of indigenous economies; (b) the loss of livelihoods, natural resources and indigenous plants and seeds, and the resultant loss of traditional knowledge; and (c) the loss of

[48] Information based on UNCTAD press kit (http://www.unctadxi.org/templates/Page____509.aspx); "Gender and Trade in the Multilateral Trading System", Geneva Women in International Trade (2004).

[49] Information based on Ip Pui Yu, Asian Domestic Workers' Network, "Asian Domestic Workers' Network" 2010 (http://en.domesticworkerrights.org/?q=node/3).

income due to the replacement of women's handicraft products and other native products by manufactured goods.

71. It is worth noting that the 1995 Beijing Declaration of Indigenous Women denounced "the perpetuation of an economic growth development model which is export-oriented, import-dependent, and mired in foreign debt is the main reason for the increase of violence, sexual trafficking and labour exporting of indigenous women".[50]

2. Food security

72. Trade liberalization reforms imposed by international financial institutions as a condition for loans or debt relief have often increased the dependence of developing countries on food imports and exposed them to fluctuations in global food prices as the flood of cheap food imports destroys local markets, dismantles long-term productive capacity and destroys livelihoods of poor farmers, many of which are women. Without the buffer of local production, global price volatility can increase local prices. The reduction of subsidies to domestic farming and the deregulation of price control arrangements further affect food prices. Moreover, the promotion of export industries to facilitate debt repayment reduces the availability of essential goods for domestic consumption. The resulting rise in prices affects the purchasing capacity of low-income families.

73. Women bear the brunt of rising food prices and growing food insecurity in developing countries. Since the majority of household expenditures in poor families is spent on food, and since price increases are sometimes the highest for staple foods, women face a decline in real wages to meet the essential family needs. Women are therefore forced to take on income-generating activities to supplement family income, as well as to change household consumption patterns, consuming cheaper food with fewer nutrients or having fewer meals.

74. Coping strategies in low-income families affected by economic distress and adjustment, which often involve reducing the quantity and quality of food, have a particular effect on women and girls, and a negative impact on their nutrition levels. Evidence shows that women are usually the first to sacrifice their meals in such circumstances. This, in turn, results in increasing maternal and child mortality.[51]

75. In cases where agricultural exports flourish, women do not generally benefit as their work is mainly concentrated in food production and livestock care — they tend not to be cash crop producers like men. Moreover, women have less access to the credit and the technology necessary to improve agricultural productivity. Thus, women gain proportionately less than men from agricultural exports. Furthermore, when families grow cash crops for export, their work produces money instead of food, which is only useful if household decision makers (usually men) give priority to basic family needs. Unfortunately, this is not always the case.

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[50] See Beijing Declaration of Indigenous Women, para. 14 (September 1995), signed by 118 indigenous groups from 27 countries (see www.ipcb.org/resolutions/htmls/olec_beijing.html).

[51] See Submission of the Special Rapporteur on the right to food, to the United Nations Conference on the World Financial and Economic Crisis and Its Impact on Development, New York: 24-26 June 2009 (www2.ohchr.org/english/issues/food/docs/NoteCrisisFinal20062009.pdf).

D. Lack of participation and access to information

76. Women are routinely excluded from participation in decision-making processes at all levels. This includes participation in the design and implementation of policies and strategies relating to debt and economic reform. As a consequence, international financial institution loans and conditionalities, as well as national strategies to respond to debt crises, often fail to take into consideration a gender perspective. This has a detrimental impact on women as policies fail to appropriately address their particular situation and their needs. As a result, women experience greater obstacles in accessing opportunities, resources and claiming their basic rights, and gender inequality is deepened.

E. Poverty and gender inequality

77. Approximately 6 in 10 of the world's poor are women, while two thirds of the world's illiterate population is female.[52] Globally, women are more likely to be poor and disadvantaged, and to be at risk of hunger, because of the systematic discrimination they face in employment, education, health care and access to property, as well as their routine exclusion from decision-making and their underrepresentation in government at all levels.

78. The increase of poverty among women is directly linked to the absence of economic opportunities, resources, education and support services. When Governments devote large portions of national revenue to repay debt and impose stringent austerity measures, the very services and opportunities that are needed to raise the status of women in their societies become unattainable. In addition, as discussed above, policy conditionalities have added to women's unpaid and informal work, limited their opportunities to work and participate in public life, affected their access to health, education and other essential services and further restricted their access to credit and productive assets. The excessive hardships endured by women as a result of economic restructuring further increase female poverty and entrenches gender inequalities within the family and in society as a whole.

IV. The impact of debt cancellation

79. Debt cancellation under the international debt relief mechanisms has led to the fall in the relative size of debt for many poor countries and to an increase in public spending. According to the World Bank and IMF, debt relief provided under the Heavily Indebted Poor Countries' (HIPC) Initiative and the Multilateral Debt Relief Initiatives (MDRI) "has substantially lowered the debt burdens" of heavily indebted poor countries and "for the 36 post-decision point countries, poverty reducing spending increased by more than three percentage points of gross domestic product (GDP), on average, between 2001 and 2010, while debt service payments declined by a somewhat smaller amount".[53] IMF and the World Bank estimate that debt

[52] See UN-Women (http://www.unifem.org/gender_issues/women_poverty_economics); see also United Nations Development Programme (UNDP), Fast Facts, Gender Equality and UNDP, July 2011.

[53] See IDA and IMF, "Heavily Indebted Poor Countries (HIPC) Initiative and Multilateral Debt Relief Initiatives (MDRI): Status of Implementation and Proposals for the Future of the HIPC Initiative", 8 November 2011.

payments for heavily indebted poor countries have fallen from over 4 per cent of national income in 2000 to 1 per cent of national income in 2009, while poverty reducing spending has increased from 7 per cent of national income in 2000 to 9 per cent in 2009.[53]

80. Where debt has been cancelled, countries have been able to increase investment in public services, such as health care, education, water and sanitation, and to abolish user fees for some of the services (such as fees for heath care and primary education) previously introduced as part of austerity measures imposed by the international financial institutions, thereby enhancing the enjoyment of the rights to health, education, water and sanitation. For example, according to World Bank estimates, health expenditures in the 32 HIPC-completion countries increased from 5.2 per cent of GDP in the period 1995-2000 to 6.6 per cent in the period 2006-2009. In the field of public education, user fees have been reduced, with primary school enrolment increasing, from 59 per cent of children in the early to mid-1990s to 83 per cent in 2010, in the 19 HIPC-completion-point countries in which data is available.

81. Debt cancellation has helped more women and girls gain access to basic services. For example, in the 32 countries which have completed the HIPC process, the ratio of boy/girl enrolment in primary school rose from 8 for every 10 boys enrolled in primary school in 2000 to 9.5 by 2010.[54] For example, in Uganda, debt relief policies have enabled the Government to abolish fees for primary school, resulting in an increase in the number of children attending school.

82. In Mauritania and the Plurinational State of Bolivia, attended births grew from 40 per cent to 60 and 70 per cent after funds from debt relief were directed to the health sector. In Benin, the Plurinational State of Bolivia, Sao Tomé and Principe and the United Republic of Tanzania, savings from debt relief have been used to fund schemes to educate mothers about nutrition and family planning. Similarly, Benin and Niger used funds from debt cancellation to increase access to water. This has benefited women and girls since fetching water is usually their responsibility.[55]

83. Given women's reliance on Government services, the figures show the potential that debt cancellation and proper use of the resulting savings can have on women's empowerment and access to economic, social and cultural rights.

84. It is important, however, to stress that debt relief has generally not reduced the vulnerability of heavily indebted poor countries and that many remain heavily dependent on foreign borrowing and investment. A recent World Bank and IMF assessment of 68 low- and middle-income countries indicates that 5 are in default on at least some of their debt payments, 15 are at high risk of not being able to pay their debts, 23 are at moderate risk of not being able to pay their debts and 25 are at low risk of not being able to pay their debts.

[54] Statistics are taken from Tim Jones, "The state of debt: putting an end to 30 years of crisis" (Jubilee Debt Campaign, 2012), p. 19. Statistics were calculated using data from debt sustainability analyses carried out by the World Bank, Global Development Finance and IMF. See also IDA and IMF, "HIPC Initiative and MDRI Initiative: Status of implementation and proposals for the future of the HIPC Initiative", 8 November 2011.

[55] See Jubilee Debt Campaign, "Debt and women" (briefing/07).

85. In addition, there are many low- and middle-income countries that have not qualified for debt relief but continue to have large debt burdens.[56] In the opinion of the independent expert, cancellation of unpayable debt will help free up resources that poor countries can use for social investment in keeping with their commitments on women's rights.

86. The independent expert further considers that debt cancellation alone will be insufficient to put countries on a path to sustainable development. There is need for countries to use the resources that they already have. This requires mobilizing domestic resources through collection of tax revenues (including tax breaks for transnational corporations) and ensuring that local capital is invested within the country. And, as the Jubilee Debt Campaign has observed, monitoring and regulating capital flows are important tools to enable countries to use their own resources.[57] This requires international cooperation in addressing tax avoidance, evasion and illicit capital flight.

V. Conclusions and recommendations

87. **Policy conditionalities attached to the loans and debt relief schemes of international financial institutions disproportionately affect women's access to essential resources and services, thereby undermining the enjoyment of their rights. Conditionalities have also contributed to the feminization of poverty and the deepening of gender inequality. Without gender considerations being taken into account in the design and implementation of debt and debt relief strategies, it is unlikely that efforts to reduce and manage foreign debt will lead to substantial poverty reduction and enhance gender equality.**

88. **In order to ensure that debt, austerity and related economic reforms do not undermine women's enjoyment of human rights, particularly economic, social and cultural rights, the independent expert recommends that:**

(a) States should uphold their commitments concerning women's rights and ensure that agreements concerning loans, debt and debt relief do not undermine women's human rights. Moreover, States should establish effective remedies for violations arising from or related to the implementation of those agreements;

(b) States should ensure that macroeconomic policies are designed to promote the economic empowerment of all and that such policies do not create an adverse impact on the realization of women's rights. In particular, States should mainstream gender perspectives in debt-related economic policies, law reforms, revenue-raising policies and poverty reduction strategies;

(c) To comply with their obligations under the Convention on the Elimination of All Forms of Discrimination against Women and other international treaties prohibiting discrimination and guaranteeing equality, States must adopt strategies on gender-responsive budgeting to ensure that

[56] For example, El Salvador, Kenya, the Philippines and Sri Lanka continue to spend a quarter of Government revenue on foreign debt payments.

[57] Tim Jones, "The state of debt: putting an end to 30 years of crisis" (Jubilee Debt Campaign, 2012).

inequality in policies, plans, programmes and budgets, including those relating to foreign debt, are addressed and modified where necessary. Gender-responsive budgeting offers a practical application of gender mainstreaming that can allow Governments to make the best use of scarce resources and improve the effectiveness of fiscal policies;

(d) States should promote the equal and active participation of women in the development planning and decision-making processes related to debt management, as well as their representation in relevant public institutions;

(e) International financial institutions and private institutions should adopt, and comply with, their own safeguard measures to protect women's economic, social and cultural rights;

(f) States should promote women's equitable control over land, natural resources and property through the adoption of legislative reforms, such as land reform, and the promotion of changes in discriminatory social practices;

(g) To improve the situation of rural women, States should create opportunities for their economic empowerment, eliminate harmful conditionalities that undermine local markets, improve women's ability to market their produce, and adopt the necessary legal and administrative measures to ensure women's ownership of property and access to credit, information and technologies;

(h) States should acknowledge the cumulative impact of austerity on women's rights and take steps to address the resulting harm. In particular, States should pay attention to the gender impact of reductions in public services, social security benefits, childcare facilities and public employment, and to the increased level of unemployment among women, and take measures to prevent greater impoverishment of women.[58] Where necessary, States should adopt temporary special measures to accelerate the equal enjoyment by women of all economic, social and cultural rights;

(i) International financial institutions and other lenders should stop linking the provision of loans, grants and debt relief to harmful policy reforms that undermine democratic processes in borrower countries, reduce women's access to resources and service, deepen inequality and contribute to the feminization of poverty. Instead, measures should be taken that aim at increasing public revenues by taxing higher income earners, enhancing tax collection and the fight against tax evasion.

[58] See A/HRC/20/23 and Corr.1, annex, para. 14.